

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KEVIN CROWL,
Plaintiff,

v.

CUPERTINO ELECTRIC, INC.,
Defendant.

Case No. 23-cv-04007-BLF

ORDER CONSOLIDATING CASES

[Re: ECF No. 14]

JAY WISE,
Plaintiff,

v.

CUPERTINO ELECTRIC, INC.,
Defendant.

Case No. 23-cv-04232-BLF

Before the Court is Plaintiffs Kevin Crowl and Jay Wise’s motion to consolidate *Crowl v. Cupertino Electric, Inc.*, 5:23-cv-04007-BLF (N.D. Cal.), and *Wise v. Cupertino Electric, Inc.*, 5:23-cv-04232-BLF (N.D. Cal.). ECF No. 14. Defendant Cupertino Electric, Inc. does not oppose the motion. The Court finds the motion appropriate for disposition without oral argument, and hereby VACATES the hearing scheduled for March 28, 2024. *See* Civ. L.R. 7-1(b).

For the reasons stated below, the Court GRANTS the motion.

I. LEGAL STANDARD

“If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.” Fed. R. Civ. P. 42(a)(2). District courts have “broad discretion under [Rule 42(a)] to consolidate cases pending in the same district.” *Investors Research Co. v. U.S. Dist. Court for Cent. Dist. of California*, 877 F.2d 777, 777 (9th Cir. 1989). “In determining

whether or not to consolidate cases, the Court should weigh the interest of judicial convenience against the potential for delay, confusion and prejudice.” *Bodri v. Gopro, Inc.*, 2016 WL 1718217, at *1 (N.D. Cal. Apr. 28, 2016) (quotation marks omitted) (quoting *Zhu v. UCBH Holdings, Inc.*, 682 F.Supp.2d 1049, 1052 (N.D. Cal. 2010)).

II. DISCUSSION

The *Crowl* and *Wise* actions, which are both pending before the Court, present similar factual and legal issues, as they each involve the same subject matter and are based on the same alleged wrongful conduct. *Compare Crowl* ECF No. 1 (“*Crowl* Compl.”), with *Wise* ECF No. 1 (“*Wise* Compl.”). Both cases bring class claims against Cupertino Electric related to a data breach discovered by Cupertino Electric on June 24, 2023. *See Crowl* Compl. ¶ 1, *Wise* Compl. ¶ 2. *Crowl* and *Wise* allege that class members’ sensitive personally identifiable information (“PII”) was compromised by the data breach and that Cupertino Electric failed to adequately protect class members’ PII from the data breach. *See Crowl* Compl. ¶¶ 1–2, 24–48; *Wise* Compl. ¶¶ 4, 39–74. Both cases define a nationwide class of all people whose PII was exposed or compromised by the data breach. *Compare Crowl* Compl. ¶ 85, with *Wise* Compl. ¶ 30. Similarly, both cases bring claims of negligence, negligence per se, breach of implied contract, breach of implied covenant of good faith and fair dealing, unjust enrichment, and for declaratory and injunctive relief. *Compare Crowl* Compl. ¶¶ 95–181, with *Wise* Compl. ¶¶ 99–188. *Crowl* brings an additional claim under the California UCL and *Wise* brings additional claims for breach of confidence and breach of fiduciary duty. Because the two cases are based on the same subject matter and alleged wrongful conduct, define substantially similar classes, and bring substantially similar claims, the Court finds that the same discovery and class certification issues will be relevant to both actions. Thus, consolidation will conserve judicial resources and reduce the time and cost of trying the cases separately. As such, the Court finds that consolidation is appropriate and will grant the motion to consolidate *Crowl* and *Wise*.

III. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that:

1. Pursuant to Fed. R. Civ. P. 42(a), the above-captioned actions (*Crowl v. Cupertino*

1 *Electric, Inc.*, No. 23-cv-4007, and *Wise v. Cupertino Electric Inc.* No. 23-cv-4232) are
2 CONSOLIDATED for all purposes.

3 2. The consolidated action will be captioned *In re Cupertino Electric Inc. Litigation*
4 and all future filings will be filed in No. 23-cv-4007. The Court ORDERS that the Clerk of the
5 Court administratively close No. 23-cv-4232.

6 3. Counsel for Crawl and Wise shall propose a schedule for filing a consolidated
7 complaint and file the proposed schedule within 10 days of the date of this Order.

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9 Dated: December 6, 2023

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11 BETH LABSON FREEMAN
12 United States District Judge
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